

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

ROBYN COVINO,

Plaintiff(s),

v.

SPIRIT AIRLINES, INC.,

Defendant(s).

Case No.: 2:20-cv-01039-GMN-NJK

Order

[Docket No. 41]

Pending before the Court is Defendant's motion to compel. Docket No. 41. The motion suffers from several defects and is **DENIED** without prejudice.

First, the oversized motion violates the local rules, which limit this type of motion to 24 pages. Local Rule 7-3(b).

Second, the Court is not convinced that a proper meet-and-confer was conducted. "Discovery is supposed to proceed with minimal involvement of the Court." *F.D.I.C. v. Butcher*, 116 F.R.D. 196, 203 (E.D. Tenn. 1986). Counsel should strive to be cooperative, practical, and sensible, and should seek judicial intervention "only in extraordinary situations that implicate truly significant interests." *In re Convergent Techs. Securities Litig.*, 108 F.R.D. 328, 331 (N.D. Cal. 1985). Discovery motions will not be considered "unless the movant (1) has made a good faith effort to meet and confer . . . before filing the motion, and (2) includes a declaration setting forth the details and results of the meet-and-confer conference about each disputed discovery request." Local Rule 26-7(c).

Judges in this District have held that the rules require that the movant must "personally engage in two-way communication with the nonresponding party to meaningfully discuss each contested discovery dispute in a genuine effort to avoid judicial intervention." *ShuffleMaster, Inc. v. Progressive Games, Inc.*, 170 F.R.D. 166, 171 (D. Nev. 1996). The consultation obligation "promote[s] a frank exchange between counsel to resolve issues by agreement or to at least narrow

1 and focus the matters in controversy before judicial resolution is sought.” *Nevada Power v.*
 2 *Monsanto*, 151 F.R.D. 118, 120 (D.Nev.1993). To meet this obligation, parties must “treat the
 3 informal negotiation process as a substitute for, and not simply a formalistic prerequisite to,
 4 judicial resolution of discovery disputes.” *Id.* This is done when the parties “present to each other
 5 the merits of their respective positions with the same candor, specificity, and support during the
 6 informal negotiations as during the briefing of discovery motions.” *Id.* To ensure that parties
 7 comply with these requirements, movants must file certifications that “accurately and specifically
 8 convey to the court who, where, how, and when the respective parties attempted to personally
 9 resolve the discovery dispute.” *ShuffleMaster*, 170 F.R.D. at 170.¹

10 Courts may look beyond the certification made to determine whether a sufficient meet-
 11 and-confer actually took place. *See, e.g., Cardoza v. Bloomin’ Brands, Inc.*, 141 F. Supp. 3d 1137,
 12 1145 (D. Nev. 2015). The sheer volume of disputes presented can be a red flag that a sufficiently
 13 meaningful conferral effort did not occur. *Reno v. W. Cab Co.*, 2019 WL 8061214, at *2 (D. Nev.
 14 Sept. 23, 2019) (citing *King Tuna, Inc. v. Luen Thai Fishing Ventures, Ltd.*, 2010 WL 11515316,
 15 at *1 (C.D. Cal. Apr. 28, 2010)).

16 Defendant’s motion here seeks relief with respect to 32 requests for production, 20
 17 interrogatories, 36 requests for admission,² and initial disclosures. Although the motion is
 18 supported by a declaration attesting in bare terms that a telephonic meet-and-confer was
 19 conducted, Docket No. 41-1 at ¶ 13, the Court is not persuaded that a sufficiently meaningful effort
 20 was made to at least narrow and focus the issues in dispute.

21 Lastly, the argument presented in the motion is ill-developed as it consists largely of pages
 22 of cut-and-pasted discovery responses followed by a few sentences of conclusory argument. While
 23 it may ultimately be Plaintiff’s burden of persuasion to defend against a motion to compel, the
 24 movant must still present meaningfully developed argument as to each particular discovery
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26 ¹ These requirements are now largely codified in the Court’s local rules. *See* Local Rule
 27 26-7(c), Local Rule IA 1-3(f).

28 ² Defendant seeks relief with respect to the requests for admission as implicated through a
 request for production and interrogatory.

1 response in dispute. *U.S. Bank, N.A. v. N. Am. Title Ins. Co.*, 2019 WL 5788302, at *2 (D. Nev.
2 Nov. 6, 2019).

3 Accordingly, Defendant's motion to compel is **DENIED** without prejudice.

4 IT IS SO ORDERED.

5 Dated: March 15, 2021

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9 Nancy J. Koppe
10 United States Magistrate Judge
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